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September 12, 2014

**VIA CERTIFIED MAIL  
AND EMAIL f5foia@epa.gov**

Freedom of Information Officer  
U.S. EPA Region 5 (MI-9J)  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

Re: **Freedom of Information Request for Sanitary District of Highland and Town of Griffith Sanitary Sewer Public Records**

Dear Freedom of Information Officer:

Pursuant to 5 U.S.C. § 552 and 40 C.F.R. § 2 *et seq.*, we hereby request copies of the following public records related to the Sanitary District of Highland (“Highland”) and Town of Griffith (“Griffith”) sanitary sewer systems listed below:

1. With respect to Highland, any and all public records (regardless of whether preliminary or final) relating to the enclosed EPA enforcement order, dated August 10, 2011, for *In the Matter of: Sanitary District of Highland, Highland, Indiana*, United States Environmental Protection Agency, Region 5, Docket No. V-W-11-AO-07 (the “2011 Enforcement Order”), including but not limited to:
  - a. Any written certifications of Highland’s intent to comply with the 2011 Enforcement Order;
  - b. The February 17, 2010 Information Request issued to Highland pursuant to Section 308 of the Clean Water Act (CWA) and Highland’s subsequent response received by EPA on March 19, 2010;
  - c. Development and submission of Highland’s Sewer System Evaluation Study (SSES) and EPA’s subsequent approval, if any;
  - d. Development and submission of Highland’s Overflow Emergency Response Plans and EPA’s subsequent approval, if any;
  - e. Annual reports submitted to EPA regarding Highland’s progress with compliance with the 2011 Enforcement Order;
  - f. Highland’s efforts to “properly manage, operate, and maintain all parts of its sanitary system” pursuant to the 2011 Enforcement Order;
  - g. Any violations of the 2011 Enforcement Order by Highland and EPA’s subsequent enforcement, if any; and

- h. Any Certifications of Completion approved by EPA pursuant to the 2011 Enforcement Order, if any.
- 2. With respect to Griffith, any and all public records (regardless of whether preliminary or final) relating to the enclosed EPA enforcement order, dated February 10, 2012, for *In the Matter of: Town of Griffith, Indiana*, United States Environmental Protection Agency, Region 5, Docket No. V-W-12-AO-08 (the "2012 Enforcement Order"), including the following:
  - a. Griffith's alternatives analysis for infrastructure improvements to eliminate SSOs from the Cline Avenue equalization basin and EPA's subsequent approval, if any;
  - b. Any written certifications of Griffith's intent to comply with the 2012 Enforcement Order;
  - c. The complaint filed by the United States, on behalf of EPA, on August 2, 1993 alleging that Griffith violated the CWA and the subsequent Consent Decree entered into by United States, the State of Indiana, and Griffith on June 19, 1997;
  - d. The March 10, 2010 Information Request issued to Griffith pursuant to Section 308 of the Clean Water Act (CWA) and Griffith's subsequent response received by EPA on March April 14, 2010;
  - e. Development and submission of Griffith's Sewer System Evaluation Study (SSES) and EPA's subsequent approval, if any;
  - f. Development and submission of Griffith's Overflow Emergency Response Plans and EPA's subsequent approval, if any;
  - g. Annual reports submitted to EPA regarding Griffith's progress with compliance with the 2012 Enforcement Order;
  - h. Griffith's efforts to "properly manage, operate, and maintain all parts of its sanitary system" pursuant to the 2012 Enforcement Order;
  - i. any violations of the 2012 Enforcement Order by Griffith and EPA's subsequent enforcement, if any; and
  - j. The Certification of Completion submitted by Griffith and approved by EPA pursuant to the 2012 Enforcement Order, if any.

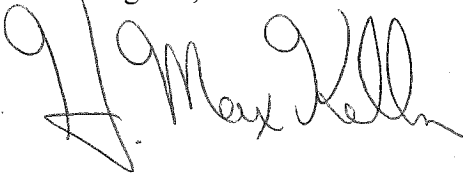
For purposes of this request, "public records" includes (1) written or printed material; (2) data; (3) maps or schematics; (4) charts; (5) photographs; (6) drawings; (7) sketches; (8) samples; (9) working notes and papers; (10) reproductions of such things by any means or process; (11) communications regardless of their form or medium, including sound, voice, electronic recordings in any form, letters, emails, texts, and phone records; (12) presentation and meeting materials (e.g. PowerPoint), minutes, notes or handouts; (13) reports or applications; and (14) any other material.

Please note that we also submitted an electronic version of this Freedom of Information Act (FOIA) to EPA Region V via [foiaonline.regulations.gov](http://foiaonline.regulations.gov) on September 12, 2014.

September 12, 2014

Please let us know if you have any questions.

Best regards,

A handwritten signature in black ink, appearing to read "H. Max Kelln". The signature is stylized with a large, looped "H" and a cursive "Max Kelln".

H. Max Kelln

HMK:skt

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>IN THE MATTER OF:</b>	)	<b>DOCKET NO. V-W-11-AO-07</b>
	)	
<b>SANITARY DISTRICT</b>	)	<b>PROCEEDING UNDER</b>
<b>OF HIGHLAND</b>	)	<b>SECTIONS 308(a) AND 309(a)</b>
<b>HIGHLAND, INDIANA</b>	)	<b>OF THE CLEAN WATER ACT,</b>
	)	<b>AS AMENDED</b>
<b><u>RESPONDENT.</u></b>	)	

**ORDER**

**STATUTORY AUTHORITY**

1. The Director of the Water Division, U.S. Environmental Protection Agency (EPA) Region 5, makes the following **FINDINGS** and issues the following **ORDER** pursuant to the authority of the Administrator of the EPA under Sections 308 and 309(a) of the Clean Water Act (CWA), 33 U.S.C. §§ 1318 & 1319(a). The Administrator delegated this authority to the Regional Administrator, EPA, Region 5, who then redelegated the authority to the Director of the Water Division, EPA, Region 5.
2. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants to the waters of the United States by any person except in compliance with a permit issued under the authority of the CWA.
3. Section 502(12) of the CWA defines "discharge of a pollutant" to mean, among other things, "any addition of any pollutant to navigable waters from any point source." 33 U.S.C. § 1362(12).
4. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), states that whenever the Administrator finds a person in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), she may issue an order requiring that person to comply with the provisions of the CWA.
5. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), authorizes the Administrator to require the owner or operator of any point source to establish and maintain records, make reports, install, use and maintain monitoring equipment, sample effluent and provide any other information she may reasonably require to carry out the objectives of the CWA.

## **FINDINGS**

6. “Infiltration” means the water entering a sewer system and service connections from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls. Infiltration does not include, and is distinguished from, inflow.
7. “Inflow” means the water discharged into a sewer system, including service connections, from such sources as, but not limited to, roof leaders; cellar, yard and area drains; foundation drains; cooling water discharges; drains from springs and swampy areas; manhole covers; cross connections from storm sewers and combined sewers; catch basins; storm waters; surface run-off; street wash waters; or drainage. Inflow does not include, and is distinguished from, infiltration.
8. “Infiltration and Inflow” or “I/I” means the total quantity of water from both infiltration and inflow without distinguishing the source.
9. “Pollutant” means any type of industrial, municipal, and agricultural waste discharged into water (e.g., dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, and cellar dirt).
10. “Satellite Community” means a community that owns and operates a sanitary sewerage system but does not own or operate a wastewater treatment plant.
11. “Sanitary Sewer Overflow” or “SSO” means an overflow, spill, release, or diversion of wastewater from a sanitary sewer system, including interceptor sewers. A SSO includes an overflow that results in a discharge to waters of the United States; and an overflow of wastewater, including a wastewater backup into a building (other than a backup caused solely by a blockage or other malfunction in a privately owned sewer or building lateral), even if that overflow does not reach waters of the United States.
12. “Sewer System Evaluation Study” or “SSES” means a systematic examination of the sewer system to locate all possibly excessive infiltration and inflow (I/I) sources, assess the structural integrity of the system, and develop recommendations and a schedule for correcting all identified I/I issues and structural problems.
13. “Water in Basement” or “WIB” means wastewater backups into buildings that are caused by blockages or flow conditions in a sanitary sewer other than a building lateral. WIBs do not include the backup of sewage caused by a blockage or other malfunction in the building’s lateral sewer.

14. The Sanitary District of Highland, ("Respondent" or "District") is a satellite collection system to the Hammond Sanitary District (HSD). Respondent owns and operates separate storm and sanitary sewer systems. The sanitary sewer system collects sanitary flow from the District and conveys flow to the HSD sewer system for treatment at a wastewater treatment plant owned by HSD.
15. The Sanitary District of Highland maintains a storm sewer system which discharges to the Little Calumet River and tributaries of the Little Calumet River, which is a water of the United States and thus a "navigable water" pursuant to section 502(7) of the CWA, 33 U.S.C. § 1362(7).
16. Respondent is a "person" as that term is defined at Section 502(5) of the Act, 33 U.S.C. §1362(5) and 40 C.F.R. Part 122.2.
17. On February 17, 2010, as authorized under Section 308(a) of the CWA, 33 U.S.C. § 1318(a), EPA issued an Information Request to the Highland Sanitary District.
18. On March 19, 2010, EPA received the District's response. Based on the information provided, EPA has determined that the District has documented 24 SSOs, and an unknown number of WIB incidents since 2005. Dates and locations are indicated in Attachment A to this Order. The District also has four (4) constructed overflow points that discharge sanitary sewage to waters of the United States.
19. Any constructed overflow point or other discrete fissure in Respondent's sanitary sewer system from which sewage has been or may be discharged constitutes a "point source," pursuant to Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
20. Discharges of pollutants into waters of the United States require a National Pollutant Discharge Elimination System (NPDES) permit pursuant to the CWA. The discharges listed in Paragraph 18, above, constitute discharges of pollutants from point sources to navigable waters of the United States without a permit issued under the CWA and consequently are violations of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

#### **ORDER FOR COMPLIANCE**

21. **BASED ON THE FOREGOING FINDINGS** and the authority vested in the undersigned Director, Water Division, **IT IS HEREBY ORDERED** in accordance with Sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§ 1318(a) & 1319(a)(3), that Respondent complete the actions detailed in the following paragraphs.
22. Within fourteen (14) calendar days of receipt of this Order, Respondent shall submit a written certification of its intent to comply with this Order.

23. Respondent must immediately begin forwarding to EPA copies of all notifications it makes to the Indiana Department of Environmental Management (IDEM) regarding the discharges of sanitary sewage from its collection system. The copies should be mailed to the following address:

Water Enforcement and Compliance Assurance Branch (WC-15J)  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60404-3590  
Attention: Jennifer Jungmann, P.E., Environmental Engineer

24. Respondent shall properly manage, operate, and maintain all parts of its sanitary sewer system at all times. This shall include but not be limited to:
- a. Providing adequate capacity to convey base flows and peak flows for all parts of the sewer system;
  - b. Eliminating all known SSOs and continuing to monitor for the existence of new SSOs for all parts of the sewer system;
  - c. Taking all feasible steps to stop SSOs and to mitigate the impact of SSOs from the sewer system; and
  - d. Providing notification to all parties with a reasonable potential for exposure to pollutants associated with any overflow event.
25. Within fourteen (14) calendar days of the effective date of this Order, Respondent shall implement a procedure to report all SSOs (as defined in Order Paragraph 11) from its sewers. This procedure shall include:
- a. Verbal notification to the Lake County Health Department (1-219-755-3655), as appropriate, within one hour of learning of the SSO. Verbal notification will include location of the SSO, the receiving water, if any, and an estimate of the volume of the SSO.
  - b. A written report to IDEM by fax at 1-317-232-8637 or by e-mail at [wwreports@IDEM.IN.gov](mailto:wwreports@IDEM.IN.gov) (with a copy to EPA) within five calendar days of the date Respondent became aware of the overflow. The written report shall contain:
    - i. The location of the SSO;
    - ii. The receiving water, if any;
    - iii. An estimate of the volume of the SSO;

- iv. A description of the sewer component from which the release occurred;
  - v. The estimated date and time when the overflow began and stopped or will be stopped;
  - vi. The cause or suspected cause of the overflow;
  - vii. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the overflow and a schedule of major milestones for those steps; and
  - viii. Steps taken or planned to mitigate the impact(s) of the overflow and a schedule of milestones for those steps.
26. Within sixty (60) calendar days of the effective date of this Order, Respondent shall submit for EPA approval an Overflow Emergency Response Plan that identifies measures to mitigate the impacts of any SSO, and protect public health and the environment. In addition to the reporting and notification program described in Order Paragraph 25, above, this plan shall include but not be limited to:
- a. a mechanism to ensure that Respondent is made aware of all SSOs from the sewer system;
  - b. establishing and implementing procedures to ensure responses to SSOs, including ensuring that reports of overflows are immediately dispatched to personnel for investigation and response;
  - c. establishing and implementing procedures to ensure that personnel are aware of and follow the Overflow Emergency Response Plan and are trained; and
  - d. establishing and implementing emergency operations procedures.
27. Within thirty (30) calendar days of approval by EPA, Respondent shall implement the approved Overflow Emergency Response Plan.
28. Within three hundred sixty (360) calendar days of the effective date of this Order, Respondent shall submit to EPA for approval a Sewer System Evaluation Study (SSES), including a schedule for implementation of all rehabilitation/replacement work. The goal of the SSES and the SSES implementation schedule is to identify sources and quantities of clear water I/I into all publicly-owned and privately-owned portions of Respondent's sewer system, to take all feasible steps to eliminate the clear water entering the sewer system, and to mitigate the impact of excessive I/I on SSOs and WIBs within Respondent's sewer system, as well as all downstream sewer systems.



- a. The SSES shall include but need not be limited to:
  - i. an evaluation of sanitary sewer system rehabilitation and/or improvements to eliminate the four (4) known relief points on the sanitary sewer system;
  - ii. an evaluation of the Respondent's entire sewer system, with primary focus on the study of the 5<sup>th</sup> Street Basin;
  - iii. a physical survey of the sewer system and confirmation of location, size, and capacity of all sewers, manholes, pump stations, overflow points, cross-connections with storm sewers, and any other appurtenances specific to Respondent's system;
  - iv. flow monitoring, at a minimum, must be conducted to adequately characterize the sanitary sewer collection system performance during wet and dry weather. Flow monitoring also must be provided at all constructed overflow points, immediately upstream of all pump stations, and at any other points deemed necessary to complete the rest of the evaluation detailed below;
  - v. estimates of peak flows (including flows from SSOs that escape from the system) associated with wet weather conditions;
  - vi. identification of the locations of any hydraulic deficiencies (including components of the system with limiting capacity) that are generating SSOs or WIBs themselves; and
  - vii. identification of the locations of sources of clear water entry into the sewer system, and an estimate of the benefit (in terms of flow removed) of eliminating each source.
- b. The SSES shall be conducted consistent with procedures outlined in the 1991 EPA "Handbook: Sewer System Infrastructure Analysis and Rehabilitation." Information on obtaining a copy can be found at the U.S. EPA web site <http://www.epa.gov/OWM/secttre.htm>.
- c. The SSES shall recommend short-term and long-term actions to eliminate each hydraulic deficiency identified. The recommendations shall:
  - i. list all technically feasible alternatives to eliminate the deficiency, including an evaluation of green infrastructure measures to reduce and/or eliminate sources of inflow;
  - ii. estimate the costs for each alternative;

- iii. identify recommended alternatives for eliminating the deficiency;
  - iv. group the alternatives in projects as appropriate; and
  - v. prioritize the projects and provide a schedule for implementation of all recommended projects. If a project is not recommended, or if an implementation schedule is impacted due solely to the affordability of the project, Respondent shall provide an analysis of the cost effectiveness of the project, including impacts on user rates.
- d. The SSES shall identify both short-term and long-term actions to eliminate each source of clear water entry into the sewer system. For each source, identify:
- i. alternatives to eliminate the source;
  - ii. the costs for each alternative; and
  - iii. the recommended alternative for eliminating the source. Group the alternatives in projects as appropriate, prioritize the projects and provide a schedule for implementation of all recommended projects. If a project is not recommended, or if an implementation schedule is impacted due solely to the affordability of the project, Respondent shall provide an analysis of the cost effectiveness of the project, including impacts on user rates.
29. If EPA, in consultation with IDEM, determines that the proposed SSES implementation schedule is unacceptable, EPA shall so notify Respondent. Respondent shall revise the schedule, incorporating EPA comments, within thirty (30) calendar days of the date of the notification from EPA.
30. Within thirty (30) calendar days of SSES approval, Respondent shall begin implementing the recommendations of the SSES on the schedule contained in the approved SSES. The implementation schedule, as approved by EPA, shall be incorporated into this Order.
31. The SSES shall be reviewed and updated by Respondent as needed to reflect current information on the performance measures that have been implemented.
32. Commencing immediately and continuing until termination of this Order, Respondent will prepare annual reports for submission to EPA. The annual report will convey the following information:
- a. respondent's progress on the projects described in the SSES implementation schedule, including specific references to the projects in

that schedule. Respondent must identify any deficiencies and all steps that have been taken or will be taken to correct the deficiencies; and

- b. an inventory of all SSOs from Respondent's sanitary sewers for the previous year, identifying the dates, sources, estimated volumes, receiving waters and principal pollutants contained in the discharges. Respondent must also issue a press release informing the public of the availability of the inventory and make the inventories available on its principal webpage.

The annual reports must be postmarked by January 31 of the year following the year subject to reporting to the Water Enforcement and Compliance Branch Chief at the address provided in Order Paragraph 23, above.

- 33. This Order will become effective immediately from the date the Respondent receives it, **unless within five days** of receipt Respondent requests an informal conference to discuss the Order and to present any information it wishes EPA to consider regarding this document. Unless it is withdrawn or modified based on information presented in the informal conference, the Order will become effective five days from the informal conference. If an informal conference is requested, it will be held at EPA's Region 5 offices at 77 West Jackson Boulevard, Chicago, Illinois. Alternatively, it can be conducted by telephone at Respondent's request. Respondent may be represented by counsel at the informal conference, but the conference will not take the form of a hearing. To request an informal conference, Respondent should contact Jennifer Jungmann at (312) 353-4627, or Respondent's attorney may contact Andre Daugavietis of our Office of Regional Counsel at (312) 886-6663.

### **GENERAL PROVISIONS**

- 34. Written statements submitted pursuant to this Order must be returned under an authorized signature certifying that all statements contained therein are true and accurate to the best of the signatory's knowledge and belief. The signatory must possess the authority to sign NPDES permit applications and reports described in 40 C.F.R. § 122.22. Any documents submitted to EPA pursuant to this Order should be certified as authentic to the best of the signatory's knowledge and belief using the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true accurate and complete. I am aware that there

are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

35. Should the signatory find at any time after submittal of the requested information that any portion of its response is false or incorrect, Respondent must notify EPA Region 5 immediately. Respondent's failure to fully comply with this Order may subject Respondent to an enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319. Knowing submittal of false information to EPA in response to this request may subject you to criminal prosecution under Section 309(c) of the CWA, 33 U.S.C. § 1319(c), as well as 18 U.S.C. §§ 1001 and 1341.
36. Pursuant to 40 C.F.R. part 2, subpart B, Respondent is entitled to assert a claim of business confidentiality regarding any portion of the information submitted in response to this Order, except effluent data, as defined at 40 C.F.R. § 2.302(a)(2). If Respondent fails to assert a claim of business confidentiality, EPA may make all submitted information available to the public without further notice. Information which is subject to a claim of business confidentiality may be available to the public only to the extent provided in 40 C.F.R. part 2, subpart B.
37. Any information submitted in response to this Order may be used by EPA in support of an administrative, civil, or criminal action against Respondent. The CWA includes provisions for administrative penalties, for civil injunctive relief and penalties, and for criminal sanctions for violations of the CWA. Specifically, EPA may assess civil administrative penalties of \$11,000 per day of violation, up to a maximum of \$157,500 under 33 U.S.C. § 1319(g) and 40 C.F.R. part 19, for violations occurring after March 15, 2004, and \$16,000 per day of violation up to a maximum of \$177,500 for violations occurring after January 12, 2009. Additionally, EPA may seek civil judicial penalties of \$32,500 per day of violations occurring before January 12, 2009, and \$37,500 for violations occurring thereafter. The CWA also provides for civil injunctive relief for violations of the CWA under 33 U.S.C. § 1319(b). Furthermore, EPA may seek criminal sanctions, including fines and imprisonment, for negligent or knowing violations of the CWA under 33 U.S.C. § 1319(c).
38. This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520, because it seeks collection of information in an enforcement action or investigation involving EPA and specific individuals or entities.

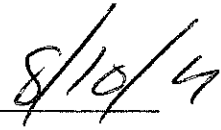
#### **CERTIFICATION OF COMPLETION**

39. After Respondent concludes that it has complied with all requirements of this Order, Respondent may submit to EPA a written certification of completion describing the actions taken to comply with the requirements of this Order.

40. After receipt and review of Respondent's certification of completion submitted pursuant to Order Paragraph 39, EPA will notify Respondent of EPA's determination of whether the requirements of the Order have been satisfied. If EPA determines that not all of the requirements of the Order have been satisfied, the Order shall remain in effect. If EPA determines that all of the requirements of the Order have been satisfied, EPA will provide written notification to Respondent of termination of the Order.

  
\_\_\_\_\_  
Tinka G. Hyde  
Director, Water Division

Date: \_\_\_\_\_



**ATTACHMENT A. SSO occurrences between 1/13/2005 and 10/30/09**

<b>Violation Number</b>	<b>Date</b>	<b>Sanitary Sewer Overflow Location</b>	<b>Receiving Water**</b>
1	1/13/2005	DULUTH ST & GRACE ST	LITTLE CALUMET RIVER
2	4/16/2006	DULUTH ST & GRACE ST	LITTLE CALUMET RIVER
3	10/2/2006	DULUTH ST & GRACE ST	LITTLE CALUMET RIVER
4	4/24/2007	DULUTH ST & GRACE ST	LITTLE CALUMET RIVER
5*	1/8/2008	N FIFTH STREET SANITARY PUMPING STATION	LITTLE CALUMET RIVER
6*	1/8/2008	41ST STREET LIFT STATION	LITTLE CALUMET RIVER
7*	1/8/2008	DULUTH ST & GRACE PLACE	LITTLE CALUMET RIVER
8	1/14/2008	N FIFTH STREET SANITARY PUMPING STATION	LITTLE CALUMET RIVER
9	1/14/2008	DULUTH ST & GRACE ST	LITTLE CALUMET RIVER
10	1/14/2008	41ST STREET LIFT STATION	LITTLE CALUMET RIVER
11	8/3/2008	N FIFTH STREET SANITARY PUMPING STATION	LITTLE CALUMET RIVER
12	8/3/2008	DULUTH ST & GRACE ST	LITTLE CALUMET RIVER
13	9/13/2008	N FIFTH STREET SANITARY PUMPING STATION	LITTLE CALUMET RIVER
14	9/13/2008	DULUTH ST & GRACE ST	LITTLE CALUMET RIVER
15	9/13/2008	41ST STREET LIFT STATION	LITTLE CALUMET RIVER
16	9/13/2008	JOHNSTON ST & LAPORTE ST	LITTLE CALUMET RIVER
17	9/13/2008	PARRISH AVE & HOMESTEAD PK	LITTLE CALUMET RIVER
18	3/8/2009	PARRISH AVE & HOMESTEAD PK	LITTLE CALUMET RIVER
19	3/8/2009	DULUTH ST & GRACE ST	LITTLE CALUMET RIVER
20	3/9/2009	PARRISH AVE & HOMESTEAD PK	LITTLE CALUMET RIVER
21	3/9/2009	DULUTH ST & GRACE ST	LITTLE CALUMET RIVER
22	10/30/2009	N FIFTH STREET SANITARY PUMPING STATION	LITTLE CALUMET RIVER
23	10/30/2009	DULUTH ST & GRACE ST	LITTLE CALUMET RIVER
24	10/30/2009	FIFTH ST & JOHNSTON SCHOOL	LITTLE CALUMET RIVER
25	10/30/2009	FIFTH ST & HOMESTEAD PK	LITTLE CALUMET RIVER
26	10/30/2009	FIFTH ST & FRANKLIN ST	LITTLE CALUMET RIVER

\* SSO reported to IDEM, not included in 308 response

\*\* SSO discharges reported were to the storm sewer system, which drains to the Cady Marsh Ditch and Spring Ditch. These ditches are tributary to the Hart Ditch, which flows into the Little Calumet River.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

FEB 10 2012

REPLY TO THE ATTENTION OF:

WC-15J

**CERTIFIED MAIL 7009 1680 0000 7672 4524**  
**RETURN RECEIPT REQUESTED**

Mr. Rick Konopasek  
Director of Public Works  
111 North Broad Street  
Griffith, Indiana 46319-2294

Subject: Town of Griffith, Indiana Order for Compliance and  
Request for Information Pursuant to 33 U.S.C. §§ 1318(a) and 1319(a)(3)  
Docket No. V-W-12-AO- 08

Dear Mr. Konopasek:

Protecting water quality is a high priority of the U. S. Environmental Protection Agency. Pollutants such as pathogens discharged to waterways from sanitary sewer overflows contribute to poor water quality and impairment of uses of those waterways.

EPA is issuing this Administrative Order (Order) to the Town of Griffith (Town), pursuant to Sections 308(a) and 309(a) of the Clean Water Act (CWA), 33 U.S.C. §§ 1318(a) and 1319(a). In the Order, EPA asserts that the Town has violated the CWA and seeks to bring the Town back into compliance with the CWA.

In April of 2010, EPA received a response to the Wet Weather/Sanitary Sewer System Information Request sent to the Town. Information gathered during the review of the response and in EPA's June 2011 inspection demonstrates that the Town has discharged untreated sanitary waste in the form of sanitary sewer overflows on numerous occasions to waters of the United States, in violation of the CWA. This Order requires you to immediately cease all sanitary sewer discharges and take any necessary action to comply with the CWA.

Please send your written responses to the addresses specified in the Order with the certification language provided in Paragraph 27 of the Order. Please note that within five days of this Order's receipt, the Town of Griffith may request a conference with EPA to discuss the terms of the Order or any other information you feel we should consider. Paragraph 26 of the Order includes details regarding how and when to request a conference.





If you have any questions or concerns, please contact Jennifer Jungmann of my staff at (312) 353-4627 or [jungmann.jennifer@epa.gov](mailto:jungmann.jennifer@epa.gov), or your legal counsel may contact Robert Guenther, Associate Regional Counsel, at (312) 886-0566 or [guenther.robert@epa.gov](mailto:guenther.robert@epa.gov).

Sincerely,



Tinka G. Hyde  
Director, Water Division

Enclosure

cc: Mark Stanifer, IDEM  
Paul Higginbotham, IDEM



bcc: AO File  
Coleman  
Jungmann  
Guenther



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>IN THE MATTER OF:</b>	)	<b>DOCKET NO.: V-W-12-AO- 68</b>
	)	
<b>TOWN OF GRIFFITH, INDIANA</b>	)	<b>PROCEEDING UNDER</b>
	)	<b>SECTIONS 308(a) AND 309(a)</b>
<b>RESPONDENT.</b>	)	<b>OF THE CLEAN WATER ACT</b>
_____	)	

**ORDER**

**STATUTORY AUTHORITY**

1. The Director of the Water Division, U.S. Environmental Protection Agency (EPA) Region 5, is making the following **FINDINGS** and is issuing the following **ORDER** pursuant to the authority of the Administrator of the EPA under Sections 308(a) and 309(a) of the Clean Water Act (CWA), 33 U.S.C. §§ 1318(a) & 1319(a). The Administrator delegated this authority to the Regional Administrator, EPA, Region 5, who then redelegated the authority to the Director of the Water Division, EPA, Region 5.
2. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants to the waters of the United States by any person except in compliance with a permit issued under the authority of the CWA.
3. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to mean, among other things, “any addition of any pollutant to navigable waters from any point source.”
4. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), states that whenever the Administrator finds a person in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), she may issue an order requiring that person to comply with the provisions of the CWA.
5. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), authorizes the Administrator to require the owner or operator of any point source to establish and maintain records, make reports, install, use and maintain monitoring equipment, sample effluent and provide any other information she may reasonably require to carry out the objectives of the CWA.

## **FINDINGS**

6. “Pollutant” means any type of industrial, municipal, and agricultural waste discharged into water (e.g., dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954 (42 U.S.C. §§ 2011-2114)), heat, wrecked or discarded equipment, rock, sand, and cellar dirt).
7. “Sanitary Sewer Overflow” or “SSO” means an overflow, spill, release, or diversion of wastewater from a sanitary sewer system, including interceptor sewers. A SSO includes overflows that result in a discharge to waters of the United States and overflows of wastewater, including a wastewater backup into a building (other than a backup caused solely by a blockage or other malfunction in a privately owned sewer or building lateral), even if that overflow does not reach waters of the United States.
8. “Satellite Community” means a community that owns and operates a sanitary sewerage system that is tributary to a different legal entity or community but does not own or operate a wastewater treatment plant.
9. Town of Griffith (“Respondent” or “Town”) is a satellite community to the Hammond Sanitary District. Respondent owns and operates a completely separate storm and sanitary sewer system which collects sanitary flow from the Town and transports it to the Hammond Sanitary District sewerage system for treatment at a wastewater treatment plant operated by the Hammond Sanitary District under NPDES permit number IN0023060.
10. Respondent is a “person” as that term is defined at Section 502(5) of the Act, 33 U.S.C. §1362(5) and 40 C.F.R. Part 122.2.
11. On August 2, 1993, the United States, on behalf of EPA, filed a complaint alleging that Town of Griffith violated the CWA. On or about June 6, 1994, the State of Indiana, filed cross claims against the Town of Griffith in the same matter. This matter was docketed as Civil Action 2:93 CV 225.
12. On June 19, 1997, the United States, the State of Indiana, and the Town of Griffith entered into a Consent Decree in the action described above.
13. On March 10, 2010, as authorized under Section 308(a) of the CWA, 33 U.S.C. § 1318(a), EPA issued an Information Request to the Town of Griffith under Docket Number V-W-10-308-17.
14. On April 14, 2010, EPA received the Town’s response. The Town reported 10 SSOs since 2006 in the response. During an August 15, 2011 inspection, the Town reported four additional SSOs since the submittal of the Information

Request response. Dates and locations of SSOs are indicated in Attachment A to this Order. All SSOs documented were the result of bypass pumping from an equalization basin to the swamp just north of the Cline Avenue Pump Station.

15. The discharges listed in the preceding paragraph constitute discharges of pollutants from point sources to the waters of the United States without a permit issue under section 402 of the CWA, 42 U.S.C § 1342, and consequently violate section 301(a) of the CWA, 33 U.S.C. § 1311(a).

### **COMPLIANCE REQUIREMENTS**

16. **BASED ON THE FOREGOING FINDINGS** and the authority vested in the undersigned Director, Water Division, **IT IS HEREBY ORDERED** in accordance with sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§ 1318(a) & 1319(a)(3), that Respondent complete the actions detailed in the following paragraphs.
17. Within 14 calendar days of receipt of this Order, Respondent must submit a written certification of its intent to comply with this Order.
18. Respondent must continuously manage, operate, and maintain all parts of its sanitary sewer system in accordance with the CWA. This includes, but is not limited to:
  - a. Providing adequate capacity to convey base flows and peak flows for all parts of the sewer system;
  - b. Eliminating all known SSOs and continuing to monitor for the existence of new SSOs for all parts of the sewer system;
  - c. Taking all feasible steps to stop SSOs and to mitigate the impact of SSOs from the sewer system; and
  - d. Providing notification to all parties with a reasonable potential for exposure to pollutants associated with any overflow event.
19. Within 14 calendar days of receipt of this Order, Respondent must implement a procedure to report all SSOs from its sewers. This procedure must include:
  - a. Verbal notification to the Lake County Health Department (1-219-755-3655) within one hour of learning of the SSO. Verbal notification must include location of the SSO, the receiving water, if any, and an estimate of the volume of the SSO.
  - b. A written report to the Indiana Department of Environmental Management (IDEM) by fax at 1-317-232-8637 or by e-mail at



wwreports@IDEM.IN.gov within five calendar days of the date Respondent became aware of the overflow. The written report must contain:

- i. The location of the SSO;
  - ii. The receiving water, if any;
  - iii. An estimate of the volume of the SSO;
  - iv. A description of the sewer component from which the release occurred;
  - v. The estimated date and time when the overflow began and stopped or will be stopped;
  - vi. The cause or suspected cause of the overflow;
  - vii. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the overflow and a schedule of major milestones for those steps; and
  - viii. Steps taken or planned to mitigate the impact(s) of the overflow and a schedule of milestones for those steps.
- c. A copy of any notification made to IDEM regarding the discharges of sanitary sewage from its collection system to EPA. All copies should be mailed to the following address:

Water Enforcement and Compliance Assurance Branch (WC-15J)  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590  
Attention: Jennifer Jungmann, PE, Environmental Engineer

20. Within 60 calendar days of receipt of this Order, Respondent must submit to EPA for approval an Overflow Emergency Response Plan that identifies measures to mitigate the impacts of any SSO, and protect public health and the environment. This plan must include, but is not be limited to:

- a. A mechanism to ensure that Respondent is made aware of all SSOs from the sewer system;
- b. Procedures and an implementation plan to ensure responses to SSOs, including ensuring that reports of overflows are immediately dispatched to personnel for investigation and response;

- c. Procedures and an implementation plan to ensure that personnel are aware of, trained on, and follow the Overflow Emergency Response Plan;
  - d. Procedures and an implementation plan for emergency operations; and
  - e. A public notification plan for SSO events through the local news media, internet postings, billing inserts, or other means, including signs or barricades to restrict access to areas potentially impacted by SSOs.
21. Within 30 calendar days of approval by EPA, Respondent must implement the approved Overflow Emergency Response Plan.
22. Within 180 calendar days of receipt of this Order, Respondent must perform an alternatives analysis of infrastructure improvements to eliminate SSOs from the Cline Avenue equalization basin and must submit to EPA a report documenting the findings and recommendations from the alternatives analysis. This analysis must include, at a minimum:
- a. An engineering analysis of proposed alternatives to eliminate SSOs from the Cline Avenue equalization basin;
  - b. Cost estimation information for each evaluated alternative; and
  - c. The recommended alternative for eliminating SSOs from the Cline Avenue equalization basin and an implementation schedule for the construction and achievement of full operational status of the recommended alternative.
23. If EPA, in consultation with IDEM, determines that the alternatives analysis or its included implementation schedule is unacceptable, EPA will notify Respondent and provide corrective comments as appropriate. Respondent must make the necessary revisions, incorporating EPA's comments, within 30 calendar days of the date of the notification from EPA.
24. Within 30 calendar days of EPA's approval of the alternatives analysis, Respondent must begin implementing the recommendations of the analysis on the schedule contained in the approved analysis. This Order will incorporate the implementation schedule after approved by EPA.
25. Commencing for the calendar year 2012, Respondent will prepare annual reports for submission to EPA. The annual report will convey the following information:
- a. Respondent's progress on the projects described in the alternatives analysis implementation schedule, including specific references to the projects in that

schedule. Respondent must identify any deficiencies and all steps that have been taken or will be taken to correct the deficiencies.

- b. An inventory of all SSOs from Respondent's sanitary sewers for the previous year, identifying the dates, sources, estimated volumes, receiving waters and principal pollutants contained in the discharges. Respondent must also issue a press release informing the public of the availability of the inventory and make the inventories available on its principal webpage.

The annual reports must be postmarked by January 31 of the year following the year subject to reporting to the Water Enforcement and Compliance Branch Chief at the address provided in Order Paragraph 19, above.

26. This Order will become effective immediately on the date the Respondent receives it, **unless within five days** of receipt Respondent requests an informal conference to discuss the Order and to present any information it wishes EPA to consider regarding this document. Unless it is withdrawn or modified based on information presented in the informal conference, the Order will become effective five days from the informal conference. If an informal conference is requested, it will be held at EPA's Region 5 offices at 77 West Jackson Boulevard, Chicago, Illinois. Alternatively, it can be conducted by telephone at Respondent's request. Respondent may be represented by counsel at the informal conference, but the conference will not take the form of a hearing. To request an informal conference, Respondent should contact Jennifer Jungmann at (312) 353-4627, or Respondent's attorney may contact Robert Guenther of our Office of Regional Counsel at (312) 886-0566.

### **GENERAL PROVISIONS**

27. Respondent must submit all information required by this Order under an authorized signature, by a person with the authority to sign NPDES permit applications and reports described in 40 C.F.R. § 122.22, using the following certification:

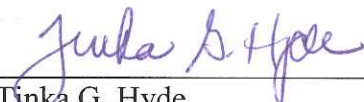
I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

28. Should the signatory find that any portion of its response is false or incorrect, Respondent must notify EPA Region 5 immediately. Knowing submittal of false information to EPA in response to this request may subject you to criminal prosecution under section 309(c) of the CWA, 33 U.S.C. § 1319(c), as well as 18 U.S.C. §§ 1001 and 1341.
29. Pursuant to 40 C.F.R. part 2, subpart B, Respondent is entitled to assert a claim of business confidentiality regarding any portion of the information submitted in response to this Order, except effluent data, as defined at 40 C.F.R. § 2.302(a)(2). If Respondent fails to assert a claim of business confidentiality, EPA may make all submitted information available to the public without further notice. Information subject to a claim of business confidentiality is available to the public only to the extent provided in 40 C.F.R. part 2, subpart B.
30. This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520, because it seeks collection of information by an Agency in an enforcement action or investigation from specific individuals or entities.
31. Any information submitted in response to this Order may be used by EPA in support of an administrative, civil, or criminal action against Respondent. Respondent's failure to fully comply with this Order may subject Respondent to an enforcement action under section 309 of the CWA, 33 U.S.C. § 1319. The CWA includes provisions for administrative penalties, for civil injunctive relief and penalties, and for criminal sanctions for violations of the CWA.
32. Compliance with this Order does not restrict EPA's authority to enforce section 301(a), 33 U.S.C. § 1311(a), or any other section of the CWA, nor does it limit EPA's authority to seek appropriate relief, including penalties under section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited in this order, any other violations of the CWA, or to enforce this Order.

#### **CERTIFICATION OF COMPLETION**

33. After Respondent concludes that it has complied with all requirements of this Order, Respondent may submit to EPA a written certification of completion describing the actions taken to comply with the requirements of this Order.

34. After review of Respondent's certification of completion submitted pursuant to Paragraph 33, EPA will notify Respondent whether it has satisfied the requirements of the Order. If EPA determines that not all of the requirements of the Order have been satisfied, the Order will remain in effect. If EPA determines that all of the requirements of the Order have been satisfied, EPA will provide written notification to Respondent of termination of the Order.

  
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Tinka G. Hyde  
Director, Water Division

Date: 2/10/2012

**ATTACHMENT A. SSO occurrences between 4/17/2006 and 6/10/2011**

<b>Violation number</b>	<b>Date</b>	<b>Sanitary Sewer Overflow Location</b>	<b>Receiving Water</b>
1	4/17/2006	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
2	9/14/2006	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
3	8/20/2007	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
4	1/8/2008	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
5	8/5/2008	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
6	9/13/2008	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
7	12/27/2008	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
8	3/8/2009	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
9	4/6/2009	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
10	10/30/2009	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
11*	6/23/2010	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
12*	4/26/2011	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
13*	5/27/2011	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station
14*	6/10/2011	Bypass pumping from equalization basin	Swamp north of Cline Avenue Pump Station

\*SSO reported to US EPA in August 15, 2011 inspection.

